

## **IN-HOUSE REVIEW / PENALTY DETERMINATION**

In order to promote cost effectiveness and ensure the availability of funds to prosecute high priority complaints, the Board adopted the following guidelines for Respiratory Care Board staff in reviewing criminal history for applicants and licensees on February 22, 2002.

These are merely in-house guidelines and do not preclude the Board from imposing a different form of discipline. The goal of the in-house review program is to reduce the costs of the Board's enforcement function by providing for proposed discipline with a minimal amount of investigation, staff, attorney and judicial resources, while at the same time carrying out the mission of the Board.

### **Violation Types**

- FRAUD (which can include welfare and other government fraud and misrepresentation and conspiracy to commit fraud);
- THEFT (which can include petty theft, receiving stolen property and trespass);
- ALCOHOL (which can include DUI, reckless driving, public intoxication and other use in violation of law);
- DRUGS (which can include use, possession, and possession for sale);
- BODILY INJURY (which can include domestic violence, assault, battery and attempted battery).

Only the above related offenses qualify for in-house review and determination of penalty as long as no other disqualifying factors or extenuating circumstances are present.

To qualify for in-house review and determination of penalty, the following criteria must be met for the particular offense or applicant:

1. Violations (with the exception of drug offense) must be misdemeanors.
2. A child must not be the victim of the offense.
3. The violation must not have occurred during employment as a health care worker.
4. Bodily injury resulting from the offense must not be to an unknowing victim, innocent bystander or defenseless person.
5. Bodily injury resulting from the offense must not have been the result of premeditation.
6. The offense must not have been extremely violent in nature, and must not have involved harassment or stalking.
7. Felony drug or alcohol offenses may qualify for in-house review and determination of penalty.

Where staff is in doubt as to the propriety of in-house review, the issues presented and the suggested discipline are to be addressed pursuant to previously established enforcement processes. Cases not qualified for this review will be reviewed individually and on a case-by-case basis for suggested discipline.

(continued)

## APPLICANT PENALTY DETERMINATION GUIDELINES

No.	Case Type	Proposed Resolution
A-1	One (1) violation older than two (2) years from the date the application is received - excluding drugs	Strong Warning Letter
A-2	Two (2) violations older than five (5) years from the date the application is received - excluding drugs	Strong Warning Letter
A-3	Any violation(s) that does not meet the qualifications in numbers A1-A2	Citation and Fine or Probation
A-4	Multiple violations that show patterned behavior and at least two (2) violations showing that patterned behavior must have occurred within three (3) years from the date that application for licensure is received	Denial
A-5	Perjury on any Respiratory Care Board form that conceals any violation or would in anyway benefit the applicant	Citation and Fine, Probation or Denial

A single incident or occurrence represents one violation.

## LICENSE PENALTY DETERMINATION GUIDELINES

No.	Case Type	Proposed Resolution
L-1	One (1) violation (within 7 years) - excluding drugs	Cite and Fine
L-2	One (1) violation for drug use/possession within seven (7) years	Probation (possible cite and fine)
L-3	Two (2) or more violations within seven (7) years	Probation or Revocation (possible cite and fine)
L-4	Multiple violations (generally 3 or more) that show patterned behavior and at least two (2) violations showing that patterned behavior must have occurred within the last five (5) years	Revocation (minimal possibility of probation)
L-5	Perjury on any Respiratory Care Board form that conceals any violation or would in anyway benefit the licensee	Citation and Fine \$1,000 for first offense, \$2,500 thereafter plus any other appropriate discipline

A single incident or occurrence represents one violation.